IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.36742 of 1998

FRIDAY, THE TWENTY SECOND DAY OF JUNE TWO THOUSAND AND SEVEN

Between:

Sama Ganga Reddy, S/o. Asha Reddy, aged 42 years, and others.

… Petitioners

And

The Agent to Government and District Collector, Adilabad, and others.

… Respondents

Order:

In this Writ Petition, petitioners have questioned the order dated 07-07-1997 passed by the second respondent, Special Deputy Collector (TW) Utnoor, ejecting the third respondent from the land admeasuring Ac.3.20 guntas in S.No.136 of Ruyyadi village, Talamadugu Mandal, Adilabad District, as confirmed by the first respondent, the Agent to Government and District Collector, the first

respondent, by order dated 02-11-1998.

2. One Smt. Ratnabai was the pattedar of the land in S.No.136 admeasuring Ac.3.20 guntas situated at Ruyyadi Village, Talamadugu Mandal. Petitioners herein are her legal representatives. The Special Deputy Collector (TW) Utnoor, on the basis of the particulars furnished by the Officer on Special Duty (TW) Utnoor that there is reason to believe that transfer of immoveable property was made in contravention of Sub-section (1) of Section 3 of A.P. Scheduled Area Land Transfer Regulations 1/59 as amended by Regulation 1/70 (for short 'the Regulations') initiated proceedings for eviction over the land in question. Thereafter, a show cause notice was issued to the third respondent, to which he submitted explanation stating that he is the farm servant of the pattedar and is cultivating the land on their behalf. His statement was also recorded. In his statement, third respondent specifically pleaded that transfer was not made in his favour and he is only cultivating the land on behalf of the pattedar by paying an amount of Rs.500/- per annum. In the absence of any other material to show that there is a lease in favour of the third respondent, only based on the sole statement alleged to have been made by the third respondent that he is cultivating the land in question by paying Rs.500/- to the pattedar, the impugned order of eviction is passed.

3. Petitioners preferred an appeal against the order dated 07-07-1997 as contemplated under the Regulations before the first respondent, the Agent to Government and District Collector. Though the appellate authority has extracted several grounds raised by the petitioners, however, based on the remarks sent by the very same authority whose order is questioned in the appeal, i.e. the second respondent, dismissed the appeal confirming the order of the second

respondent.

4. In this case, it is not in dispute that the said Ratna Bai was the pattedar and possessor of the land in question, which has subsequently been devolved on the petitioners, as they were her legal representatives. Though it is alleged that the land in question has been transferred within the meaning of the Regulations, however, there is no material to show that there was transfer at all by the pattedar in favour of any third party in contravention of the Regulations. Merely because a third party has stated that he was cultivating the land in question by paying Rs.500/- to the pattedar, that by itself, in the absence of any other supporting material or entries in the revenue records to prove that transfer was made in contravention of the Regulations, is not a valid ground to pass an order of eviction unless there is sufficient material before the authority. Even though the appellate authority extracted the grounds of appeal elaborately, but, ultimately failed to consider any of the grounds raised and simply confirmed the order passed by the primary authority based on the remarks sent by it.

5. As much, in this case, there is no material in support of the allegations made that the land in question has been transferred in contravention of the Regulations, I deem it a fit case to set aside the orders under challenge. Accordingly, the order dated 07-07-1997 passed by the second respondent, Special Deputy Collector (TW) Utnoor and the order dated 02-11-2998 passed by the Agent to Government and District Collector are set aside.

6. The Writ Petition is allowed to the extent indicated above. No order as to costs.

Justice R. Subhash Reddy.

June 22, 2007
MRR